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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,282	02/16/2005	Eddy Boucke	BER-101-PCT/US	7823
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DAVID I. ROCHE				
BAKER & MCKENZIE LLP				
130 EAST RANDOLPH DRIVE				
CHICAGO, IL 60601				
EXAMINER				
SCHATZ, CHRISTOPHER T				
ART UNIT		PAPER NUMBER		
1791				
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07/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/525,282

Applicant(s)

BOUCKE, EDDY

Examiner

CHRISTOPHER SCHATZ

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

FINAL REJECTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-9 and 11-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thiers (US 20030159385) in view of Cornell (US 4348448) and MacDonald et al. (US 4008551) for the same reasons as set forth in section 3 of the office action dated January 10, 2008.

4. Claims 9 and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thiers, Cornell and MacDonald et al. as applied to claims 1 and 18 above, and further in view of Turner (US 4704834) for the same reasons as set forth in section 4 of the office action dated January 10, 2008.

5. Claims 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thiers in view of Cornell, MacDonald et al. and Turner for the same reasons as set forth in section 5 of the office action dated January 10, 2008.

Response to Arguments

6. Applicant's arguments filed June 26, 2008 have been fully considered but they are not persuasive.

The applicant argues of the three references cited in section 3, only Thiers relates to flooring, and that the issues of wear and durability required for flooring do not compare with the wear resistance and durability of things such as decorative panels in cabinets and doors. The applicant should note that it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, all three references are pertinent to the particular problem with which applicant was concerned – manufacturing a panel with a beveled edge wherein said edge does not negatively affect the decorative properties of said panel. Additionally, the applicant should note that advantage of forming the recess as taught by Cornell and MacDonland applies to the method of Thiers.

The applicant argues that none of the references meet the limitation of applicant's claim because all three references teach formation of a beveled edge from

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above, rather than from the side. This argument is not commensurate with the scope of applicant's claim. The independent claims, as currently written, do not require that the recess be formed from the side. Rather, the claims only require that the recess extend under the top surface from the side surface. The applicant should note however, that Cornell does disclose forming a recess from a side surface (column 8, lines 5-6).

The applicant argues that Cornell's bottom surface, rather than Cornell's top surface, extends continuously around the edge of the panel. The examiner asserts that Cornell never characterizes the surface layer 12 as the "bottom surface." In fact, Cornell discloses that layer 12 is the "decorative facing film," (column 5, lines 42-43) and one of ordinary skill in the art would have thus understood this surface to be the "top" surface.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **CHRISTOPHER SCHATZ** whose telephone number is **571-272-6038**. The examiner can normally be reached on Monday through Friday 9 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CHRISTOPHER SCHATZ/

Examiner, Art Unit 1791

/Richard Crispino/

Supervisory Patent Examiner, Art Unit 1791